

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

PEDRO A. NAVEDA,

Petitioner,

To Review Under Section 101 of the Labor Law:  
An Order To Comply With Article 6 of the Labor  
Law, and an Order Under 19 of the Labor Law, both  
dated April 30, 2009,

- against -

THE COMMISSIONER OF LABOR,

Respondent.  
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DOCKET NO. PR 16-008

RESOLUTION OF DECISION

**APPEARANCES**

Pedro A. Naveda, petitioner pro se.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Kathleen Dix of counsel), for respondent.

**WHEREAS:**

This proceeding was commenced when petitioner filed a petition with the Industrial Board of Appeals (Board) on January 11, 2016 in an envelope post-marked January 6, 2016. The Board served the petition on respondent Commissioner of Labor on January 15, 2016. Respondent moved on February 16, 2016, to dismiss the petition as untimely because it was filed more than 60 days after the orders being appealed were issued. Petitioner did not reply to the motion.

Labor Law § 101 (1) provides that:

“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner . . . . Such petition shall be filed with the board no later than sixty days after the issuance of such . . . order.”

The orders sought to be reviewed were issued on April 30, 2009, and therefore, any petition for review filed with the Board with a post-mark after June 29, 2009 is untimely (*id.*;

Board Rules of Procedure and Practice 65.5 [d] [12 NYCRR 65.5 (d)]). As the petition in this proceeding was post-marked after June 29, 2009, it was filed late and must be dismissed.

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:**

The Commissioner of Labor's motion to dismiss the petition for review is granted, and the petition for review be, and the same hereby is, dismissed.



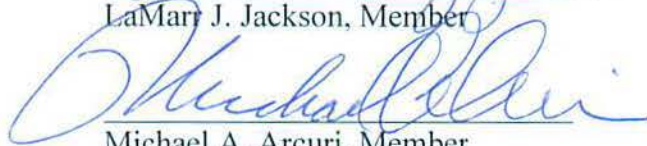
Vilda Vera Mayuga, Chairperson



J. Christopher Meagher, Member



LaMar J. Jackson, Member



Michael A. Arcuri, Member

Dated and signed by the Members  
of the Industrial Board of Appeals  
at Albany, New York  
on April 13, 2016.